

STATE OF MICHIGAN
COURT OF APPEALS

CHERYL ANN HUGHES,

Plaintiff-Appellant,

v

GENERAL MOTORS CORPORATION,

Defendant-Appellee.

UNPUBLISHED

March 7, 2006

No. 263688

Oakland Circuit Court

LC No. 02-046154-CL

Before: White, P.J., and Jansen and Wilder, JJ.

WHITE, P.J. (*concurring in part and dissenting in part*).

I concur in the affirmance of the dismissal of plaintiff's claims outside the three-year limitations period.

I cannot agree with the majority that plaintiff failed to present a prima facie case of discrimination. The record is clear that plaintiff applied for eleven positions within the limitations period, and was interviewed for only one of the positions. Plaintiff testified on deposition, under oath, that she applied only for positions for which she was qualified. In discovery, defendant failed to produce much of the data--data over which only GM had control--plaintiff requested regarding the GM employees chosen over plaintiff for the eleven positions and regarding the GM managers who chose the successful candidates for those positions.

With regard to plaintiff's claim of disparate pay, I also dissent. A document produced below from GM's Human Resources department, dated March 17, 2000 (well within the limitations period), states in pertinent part:

I have an employee by the name of Cheryl Hughes who we are promoting (proficiency) in June of 2000. The Director has included her in his compensation plan and is only able to give her a 10% increase. The following is background information on Ms. Hughes:

1. Ms. Hughes transferred to the Truck Group on December 16, 1998 from the Cadillac Division . . . She came to the Truck Group, as a 6E11 and her base salary was \$4,267.00 (market rate was \$4,850.00).

2. In June of 1999, Ms. Hughes received a 10% increase.

3. She is a *black female*.

4. She has a Bachelor's and Master's degree in Electrical Engineering from Wayne State University.

I am requesting the following:

1. Proficiency Promotion – 25% increase

NAO compensation to provide 15% (Truck Group to provide 10%)

A 25% increase would bring her to 86% to market for 7E10.

As you can see, she is has [sic] been really low to market for quite some time. I am not sure she is low to market primarily because of the broadbanding at Cadillac. The Truck Group tried to bring her closer to market rate in June of 1999 by increasing her base salary by 10%. [Emphasis added.]

The 25% increase referred to was denied, and plaintiff instead received a 9.8% increase, leaving her *more than \$18,000 below market rate*.

Finally, regarding her termination, I believe plaintiff presented a prima facie case of retaliation. Plaintiff presented evidence from which a reasonable fact-finder could conclude that the African-American, female GM managers whom defendant asserts were responsible for terminating plaintiff's employment, were in fact coached by the GM attorney that defendant charged with investigating plaintiff's discrimination complaints. Plaintiff also presented ample evidence to show that defendant's proffered reason for terminating her, that she was disinterested in an "engineering position," was a semantic misrepresentation of the term "engineering," as representing the whole engineering function, rather than the engineering department.

I would reverse the grant of summary disposition as to plaintiff's claims of discrimination and retaliation within the three-year limitations period.

/s/ Helene N. White